

TIMOTHY J. HAGERTY
(Kentucky State Bar No. 85414)
Pro hac vice application pending
Frost Brown Todd LLC
400 W. Market St., 32nd Floor
Louisville, Kentucky 40202
Telephone: (502) 589-5400
Facsimile: (502) 581-1087
Email: thagerty@fbtlaw.com

KENNETH A. REICH
(Massachusetts State Bar No. BBO 549464)
Pro hac vice application pending
WolfBlock LLP
One Boston Place
Boston, MA 02108
Telephone: (617) 226-4003
Facsimile: (617) 226-4500
Email: kreich@wolfblock.com

JOSE R. ALLEN (California State Bar No. 122742)
Skadden, Arps, Slate, Meagher & Flom LLP
Four Embarcadero Center, Suite 3800
San Francisco, CA 94111
Telephone: (415) 984-6400
Facsimile: (415) 984-2698
Email: Jose.Allen@skadden.com

Attorneys for Applicant Intervenor-Defendant
East Kentucky Power Cooperative, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CENTER FOR BIOLOGICAL DIVERSITY,
KENTUCKY ENVIRONMENTAL
FOUNDATION, and SIERRA CLUB

Plaintiffs,

vs.

RURAL UTILITIES SERVICE, a federal agency
Within the United States Department of Agriculture

Defendant.

Case No. C08-1240-MMC

**STIPULATION RE BRIEFING
SCHEDULE; [PROPOSED] ORDER
THEREON**

Honorable Maxine M. Chesney
Courtroom 7, 19th Floor

1 WHEREAS, on March 8, 2008, Plaintiffs Center for Biological Diversity, Kentucky
2 Environmental Foundation, and Sierra Club (collectively, "Plaintiffs") filed a Complaint and
3 Request for Declaratory and Injunctive Relief with this Court naming Rural Utilities Service, a
4 federal agency within the United States Department of Agriculture, as the defendant;

5 WHEREAS, in their Complaint, Plaintiffs raise claims under the National Environmental
6 Policy Act ("NEPA"), 42 U.S.C. §§ 4321-4370(d), and its implementing regulations, 40 CFR
7 §§ 1500-1508 in regard to Defendant Rural Utilities Service's ("RUS") NEPA review of Applicant
8 Intervenor-Defendant East Kentucky Power Cooperative, Inc.'s ("EKPC") request for financing
9 assistance for two new combustion turbine electric generating units at its existing J.K. Smith Electric
10 Generating Station, two new electric switching stations, and a 36-mile, Smith-West Garrard 345
11 kilovolt electric transmission line;

12 WHEREAS, on April 30, 2008, RUS filed a motion to transfer venue in the above captioned
13 case and a hearing was set for June 27, 2008;

14 WHEREAS, on May 2, 2008, RUS filed an Answer;

15 WHEREAS, EKPC intends to file a motion to intervene in this action on May 30, 2008.
16 Plaintiffs oppose EKPC's motion, and RUS takes no position on EKPC's motion;

17 WHEREAS, EKPC intends to file a proposed concurrence to RUS's motion to transfer venue
18 on May 30, 2008, which concurrence EKPC requests the Court to consider if its request for
19 intervention on the merits of this action is granted;

20 WHEREAS, EKPC wishes to have the motion to transfer venue and motion to intervene
21 heard on the same date and at the earliest date possible to avoid unnecessary time and waste of
22 judicial resources;

23 WHEREAS, RUS and Plaintiffs do not object to having the motion to intervene heard on the
24 same day as the currently scheduled June 27, 2008 hearing on the motion to transfer venue; and

25 WHEREAS, the Parties agree to a shortened briefing schedule.

26 WHEREFORE, the Parties agree that the hearings on the motion to transfer venue and the
27 motion to intervene shall take place on **June 27, 2008**, and by and through their respective counsel
28 of record, hereby stipulate to the following schedule:

May 30, 2008: Applicant Intervenor-Defendant EKPC's Motion to Intervene to be
Filed, and Applicant Intervenor-Defendant EKPC's Proposed
Concurrence to RUS's Motion to Transfer to be Filed
June 13, 2008: Plaintiffs' Opposition to Motion to Intervene Due
June 17, 2008: Applicant Intervenor-Defendant's Reply Brief Due

Nothing in this stipulation shall affect the schedule for RUS's motion to transfer venue, which shall
be briefed and heard in accordance with the local rules.

Dated: May 30, 2008

S/ JOSÉ R. ALLEN

JOSE R. ALLEN
Skadden, Arps, Slate, Meagher & Flom LLP
Four Embarcadero Center, Suite 3800
San Francisco, California 94111
Telephone: (415) 984-6400
Facsimile: (415) 984-2698
Email: Jose.Allen@skadden.com

TIMOTHY J. HAGERTY

Pro hac vice application pending
Frost Brown Todd LLC
400 W. Market St., 32nd Floor
Louisville, Kentucky 40202
Telephone: (502) 589-5400
Facsimile: (502) 581-1087
Email: thagerty@fbtlaw.com

KENNETH A. REICH

Pro hac vice application pending
WolfBlock LLP
One Boston Place
Boston, MA 02108
Telephone: (617) 226-4003
Facsimile: (617) 226-4500
Email: kreich@wolfblock.com

Attorneys for Applicant Intervenor-Defendant
East Kentucky Power Cooperative, Inc.

1 Dated: May 30, 2008

2 RONALD J. TENPAS
3 Assistant Attorney General
4 Environment and Natural Resources Division

5 S/ RACHEL A. DOUGAN*
6 RACHEL A. DOUGAN
7 JULIE S. THROWER
8 Trial Attorneys
9 Natural Resources Section
10 Environment and Natural Resources Division
11 United States Department of Justice
12 Environment & Natural Resources Division
13 P.O. Box 663
14 Washington, DC 20044-0663
15 Telephone: (202) 616-5082
16 Facsimile: (202) 305-0506
17 Email: Rachel.Dougan@usdoj.gov

18 Attorneys for Defendant Rural Utilities Service

19 Dated: May 30, 2008

20 S/ MATTHEW D. VESPA*
21 MATTHEW D. VESPA
22 Center for Biological Diversity
23 1095 Market Street, Suite 511
24 San Francisco, CA 94103
25 Telephone: (415) 436-9682 ext. 309
26 Facsimile: (415) 436-9683
27 Email: mvespa@biologicaldiversity.org

28 MARIANNE DUGAN
Pro hac vice
259 E. 5th Ave., Ste 200-D
1095 Market Street, Suite 511
Eugene, OR 97401
Telephone: (541) 338-7072
Facsimile: (866) 650-5213
Email: mdugan@mdugan.com

Attorneys for Plaintiffs Center for Biological
Diversity, Kentucky Environmental Foundation,
and Sierra Club

* Per email authorization

1 IT IS SO ORDERED.

2
3 Dated:

4 United States District Judge
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28